

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS**

NISSAN NORTH AMERICA, INC.

Plaintiff,

v.

WOODFIELD NISSAN, INC. and ROY CARR,

Defendants,

Case No. 1:23-cv-16084

Judge Martha M. Pacold

Mag. Judge Heather K. McShain

**WOODFIELD NISSAN'S RESPONSE TO PLAINTIFF'S
MOTION TO AMEND**

Defendant Woodfield Nissan, Inc. ("Woodfield Nissan"), after conferring with Plaintiff Nissan North America, Inc. ("NNA"), submits the following response to the pending Motion to Amend and Memorandum of Law in Support Thereof ("Motion to Amend") (Dkt. # 38):

1. Plaintiff NNA has filed a Motion to Amend its Complaint, which adds an additional count brought under California's Unfair Competition Law.

2. Woodfield Nissan has defenses to the new claim. However, Woodfield Nissan believes those defenses would be more appropriately asserted by way of a Motion to Dismiss brought under Federal Rule of Civil Procedure 12(b).

3. Woodfield Nissan has conferred with Plaintiff and does not oppose the motion for leave to amend, subject to the above reservation regarding the presentation of Woodfield Nissan's defenses. Plaintiff and Woodfield Nissan have conferred and propose the following briefing schedule related to Woodfield Nissan's Rule 12(b) Motion in response to the Amended Complaint:

- a. **January 23, 2025** – Woodfield Nissan shall file any Rule 12 responsive pleading to the Amended Complaint, including any motion under Rule 12(b);
- b. **February 28, 2025** – NNA shall respond to Woodfield Nissan's Rule 12(b) Motion to Dismiss;

- c. **March 14, 2025** – Woodfield Nissan shall reply in further support of its Rule 12(b) Motion to Dismiss.

4. Should the Court be inclined to hear oral argument on the Motion, the parties would welcome such a hearing on a date available for the Court. Counsel for Woodfield Nissan is unavailable the week of March 24 through March 28, 2025.

WHEREFORE, Woodfield Nissan, Inc., having conferred with counsel for Plaintiff NNA, requests that the Court enter the above schedule on Woodfield Nissan, Inc.'s Rule 12 responsive pleading to the Amended Complaint, including Woodfield Nissan's forthcoming Rule 12(b) motion to dismiss.

Date: January 6, 2025

Respectfully submitted,

WOODFIELD NISSAN, INC.

By: /s/ Eric P. VanderPloeg
One of Its Attorneys

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CERTIFICATE OF SERVICE

The undersigned, an attorney, states that on the 6th day of January, 2025, he caused the foregoing **DEFENDANT WOODFIELD NISSAN, INC.'S RESPONSE TO PLAINTIFF'S MOTION TO AMEND** to be filed electronically with the United States District Court for the Northern District of Illinois via the Court's CM/ECF filing system, and to be served by the same system on all counsel of record:

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/s/ Eric P. VanderPloeg